



STATE OF NEW YORK DEPARTMENT OF HEALTH

REC D JAN 02 2000

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TRANSMITTAL: 00 OMM/ADM-9

TO: Commissioners of
Social Services

DIVISION: Office of
Medicaid
Management

DATE: December 12, 2000

SUBJECT: Citizenship and Alien Status Requirements for the Medicaid
Program

**SUGGESTED
DISTRIBUTION:**

Medical Assistance Staff
Public Assistance Staff
Staff Development Coordinators

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ATTACHMENTS:

Attachment I: Documentation Guide for Citizenship and Alien Status - not available on-line
Attachment II: DSS-3955: Certification of Treatment of Emergency Medical Condition - not available on-line
Attachment III: DSS-3622A: Notice of Eligibility for Coverage for Treatment of an Emergency Medical Condition - not available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
88 ADM-4 88 ADM-22 92 ADM-10	88 ADM-4	360-3.2(f) 360-4.11	\$122 P.L. 104-193 P.L. 104-208 P.L. 105-33		GIS 97 MA/019 98 MA/21
DSS-296EL (REV. 9/89)					

I. PURPOSE

This Office of Medicaid Management Administrative Directive (OMM/ADM) outlines the citizenship requirements for individuals in the Medicaid program, and provides instructions to social services districts for determining the appropriate Medicaid coverage to be provided, based on an individual's citizenship status.

II. BACKGROUND

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), Illegal Immigration and Immigrant Responsibility Act of 1996 (P.L. 104-208), and the Balanced Budget Act (P.L. 105-33) include significant provisions affecting non-citizens entitlement to Medicaid.

Prior to passage of this legislation, non-citizens were entitled to receive Medicaid benefits if they were determined to be lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (PRUCOL). Non-citizens who did not meet the PRUCOL criteria, but who were otherwise eligible for Medicaid, were provided Medicaid benefits only for care and services necessary for the treatment of an emergency medical condition, as defined in section 1903(v) of the federal Social Security Act.

The new legislation restricts the provision of Medicaid to individuals who are qualified aliens. Certain qualified aliens must receive full Medicaid benefits, if otherwise eligible. Other qualified aliens may receive full Medicaid benefits, depending on their date of entry into the United States. Aliens who are not qualified may be provided Medicaid coverage only when care and services are necessary for the treatment of an emergency medical condition.

The new legislation also contains provisions requiring that the income and resources of a sponsor of an alien, and the income and resources of the sponsor's spouse, must be deemed available to the alien for purposes of determining the eligibility of the alien for Medicaid, other than Medicaid provided for care and services necessary for the treatment of an emergency medical condition. Previously, when determining the eligibility of a sponsored alien, only the amount of income and/or resources actually available to the alien from his or her sponsor was budgeted.

The New York State Legislature, in Chapter 436 of the Laws of 1997, added a new requirements.

III. PROGRAM IMPLICATIONS

Section 122 of the SSL requires that, in order to be considered eligible for all care and services available under the Medicaid program, individuals must be citizens or aliens duly naturalized as citizens. It further provides that aliens who are "qualified aliens" (as defined in section IV. of this directive) and who meet certain conditions may receive full Medicaid benefits. Qualified aliens who do not meet these conditions and aliens who are not qualified may only receive Medicaid coverage for care and services necessary for the treatment of an emergency medical condition.

Special exceptions are provided for two groups of aliens who are not qualified: 1.) aliens who, on August 4, 1997, were residing in certain residential facilities and receiving Medicaid based on a determination that they were PRUCOL; and 2.) aliens who, on August 4, 1997, had been diagnosed with AIDS, as defined in Section 2780(1) of the Public Health Law, and were receiving Medicaid based on a determination that they were PRUCOL. Such aliens will continue to receive full Medicaid benefits, to the extent they are otherwise eligible.

Section 122 also provides that, under certain circumstances, the earned and unearned income and the resources of a sponsor of an alien, and the income and resources of the sponsor's spouse must be deemed available to the sponsored alien for purposes of determining the eligibility of the alien for Medicaid, other than Medicaid provided for care and services necessary for the treatment of an emergency medical condition. To the extent Medicaid other than for treatment of an emergency medical condition is provided to the sponsored alien, the social services district must request reimbursement from the sponsor and may take legal action to recover Medicaid expenditures when the sponsor does not cooperate.

NOTE: The provisions of this directive do not apply to pregnant women. A woman with a medically verified pregnancy is not required to document citizenship or alien status for the duration of her pregnancy, through the last day of the month in which the 60 day postpartum period ends.

IV. REQUIRED ACTION

A. DEFINITIONS

1. **UNITED STATES CITIZEN:** For purposes of qualifying as a United States citizen, the United States includes the 50 states, the District of Columbia, Puerto Rico, Guam, U.S. Virgin Islands and the Northern Mariana Islands. Nationals from American Samoa or Swain's Island are also regarded as United States citizens for purposes of Medicaid eligibility.
2. **QUALIFIED ALIEN:** The term qualified alien means an alien:
 - who has been lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
 - who has been granted asylum under section 208 of the INA;
 - who has been admitted to the United States as a refugee under section 207 of the INA (including Amerasian immigrants admitted under the provisions of Public Law 100-202);
 - who has been paroled into the United States under section 212(d)(5) of the INA for a period of at least one year;
 - whose deportation has been withheld under section 243(h) or 241(b)(3) of the INA;
 - who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980);
 - who has been granted conditional entry pursuant to section 203(a)(7) of the INA; or
 - who has been determined by the social services district to be in need of Medicaid as a result of being battered or subject to extreme cruelty in the United States by a spouse

parent, or by a member of the spouse or parent's family residing in the same household as the alien (see section IV.C.4. of this directive).

3. **AMERICAN INDIAN BORN IN CANADA:** An American Indian born in Canada may freely enter and reside in the United States and is considered to be lawfully admitted for permanent residence if he or she is of at least one-half American Indian blood. As such, he or she is a qualified alien. This does not include a non-citizen spouse or child of such Indian or a non-citizen whose membership in an Indian tribe or family is created by adoption, unless such person is at least 50 percent Indian blood.
4. **EMERGENCY MEDICAL CONDITION:** The term emergency medical condition means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
 - placing the person's health in serious jeopardy;
 - serious impairment to bodily functions; or
 - serious dysfunction of any bodily organ or part.

Further, provided for treatment of emergency medical conditions does not include care and services related to an organ transplant procedure.
5. **NON-IMMIGRANT:** A non-immigrant is an alien who has been allowed to enter the United States for a specific purpose and for a limited period of time. Examples include tourists, students, and visitors on business.
6. **UNDOCUMENTED ALIEN:** Undocumented aliens do not have the permission of the Immigration and Naturalization Service (INS) to remain in the United States. They may have entered the United States legally but have violated the terms of their status, e.g., over-stayed a visa, or they may have entered without documents.

B. DOCUMENTATION REQUIREMENTS

Citizens, nationals and qualified alien applicants for Medicaid must provide appropriate documentation of their citizenship or immigration status. Such individuals must also sign a declaration, under penalty of perjury, that they are citizens, nationals or qualified aliens and must provide, or apply for, a Social Security Number.

Pregnant women are not required to document their immigration status, complete the citizenship declaration, or provide a Social Security Number. In the month following the month in which the 60 day postpartum period ends, the woman must meet these and all other applicable requirements in order to remain Medicaid eligible.

Attachment I provides examples of acceptable documents which establish citizenship and immigration status. Many elderly individuals born in rural areas of the United States have

particular difficulty in documenting their place of birth. Districts must provide assistance to such persons in exploring all possible sources of primary and secondary verification before denying such individuals on the basis of citizenship status.

C. ELIGIBILITY OF ALIENS FOR BENEFITS

1. QUALIFIED ALIENS

a. Entry Prior to August 22, 1996

A qualified alien who entered the United States prior to August 22, 1996, may receive all care and services available under the Medicaid program, provided he or she is determined to be otherwise eligible. This provision includes individuals who attained qualified alien status subsequent to August 22, 1996, and who can demonstrate to the district's satisfaction that they continuously resided in the United States until attaining qualified alien status.

b. Entry On or After August 22, 1996

The following qualified aliens who enter the United States on or after August 22, 1996, may receive all care and services available under the Medicaid program, provided they are determined to be otherwise eligible:

- refugees under section 207 of the INA (including Amerasian immigrants admitted under the provisions of Public Law 100-202);
- aliens who have been granted asylum under section 208 of the INA;
- aliens for whom deportation has been withheld under section 243(h) or 241(b)(3) of the INA;
- aliens who are Cuban and Haitian entrants (as defined in section 501(e) of the Refugee Education Assistance Act of 1980);
- qualified aliens lawfully residing in the State who are on active duty in the armed forces, or who have received an honorable discharge from the armed forces and their spouses and unmarried dependent children, who are also qualified aliens. (See section IV.C.5. of this directive for further requirements regarding the veteran/active duty exception.)

Qualified aliens who do not meet these requirements are not eligible to receive medical care or services under the Medicaid program beginning on the date the alien enters the United States and continuing for a period ending five years after the date status as a qualified alien is granted, unless the alien is otherwise eligible and is pregnant, or requires treatment of an emergency medical condition.

c. Eligibility Following the Five Year Ban

At the time a qualified alien has resided in the United States for a period of five years with a qualified alien status, the alien may be eligible to receive full Medicaid coverage in the appropriate federal or non-federal category of assistance.

An alien applicant who does not meet the criteria outlined in this section must be denied unless the applicant has documented an emergency medical condition or pregnancy.

2. NON-QUALIFIED ALIENS

An alien who is not a qualified alien (here after referred to as non-qualified), is not eligible to receive medical care or services under the Medicaid program unless the alien is otherwise eligible and the care and services are necessary for the treatment of an emergency medical condition. This includes non-qualified aliens who were previously eligible for Medicaid because they were determined to be PRUCOL.

a. Exception for Certain Residential Settings

Section 122 of the SSL provides an exception for PRUCOL aliens who, on August 4, 1997, were residing in certain residential settings and receiving Medicaid. Such individuals will continue to be provided Medicaid, to the extent they are otherwise eligible. The settings included in this exception are:

- residential health care facilities licensed by the Department of Health;
- residential facilities licensed, operated or funded by the Office of Mental Health (OMH), including: psychiatric centers; residential treatment facilities; family care; community residences; teaching family homes; family based treatment; and residential care centers for adults; and
- residential facilities licensed, operated or funded by the Office of Mental Retardation and Developmental Disabilities (OMRDD), including: developmental centers and small residential units; intermediate care facilities for the developmentally disabled; family care; community residences; individual residential alternatives; and OMRDD certified schools for the mentally retarded.

b. Exception for Persons Diagnosed With AIDS

Section 122 of the SSL also provides an exception for PRUCOL aliens who, on August 4, 1997, had a diagnosis of AIDS, as defined in Section 2780 of the Public Health Law, and were in receipt of Medicaid.

The definition of AIDS is determined by the Center for Disease Control and such diagnosis may be ascertained by relevant documentation, including:

- any notation or documentation in the individual's Medicaid file; or
- documentation of Social Security Disability as a result of AIDS; or

- a letter from a physician or other health care professional that indicates an individual had CDC defined AIDS on or before August 4, 1997.

c. Treatment of Non-Immigrants

Some aliens may be lawfully admitted to the United States, but only for a temporary or specified period of time, as legal non-immigrants. These aliens are not eligible for Medicaid because of the temporary nature of their admission status. These aliens are never qualified aliens, but in some cases may meet the State residence rules. If this is the case, such aliens could be determined eligible for Medicaid for the treatment of emergency medical conditions, provided they did not enter the State for the purpose of obtaining medical care.

The following categories of individuals are legal non-immigrants:

- Foreign government representatives on official business and their families and servants;
- Visitors for business or pleasure, including exchange visitors;
- Aliens in travel status while traveling directly through the United States;
- Crewmen on shore leave;
- Treaty traders and investors and their families;
- Foreign students;
- Personnel of international organizations and their families and servants;
- Temporary workers, including agricultural contract workers; and
- Members of foreign press, radio, film, or other information media and their families.

These aliens have the following types of INS documentation:

- Form I-94, Arrival-Departure Record;
- Form I-185, Canadian Border Crossing Card;
- Form I-186, Mexican Border Crossing Card;
- Form SW-434, Mexican Border Visitor's Permit; or
- Form I-95A, Crewman's Landing Permit.

3. TREATMENT FOR EMERGENCY MEDICAL CONDITIONS

As explained previously, the following classes of aliens may receive Medicaid only for care and services necessary for the treatment of emergency medical conditions:

- qualified aliens who enter the United States on or after August 22, 1996, during their first five years with a qualified status, unless the alien meets one of the exceptions listed in Section IV.C.1.b. of this directive;

- non-qualified aliens, regardless of date of entry into the United States, including undocumented aliens, with the exception of PRUCOL aliens residing in certain residential facilities, as described in Section IV.C.2.a. of this directive.

To be eligible for treatment of an emergency medical condition, the alien must meet all eligibility requirements, including state residence. Qualified aliens in the five year ban must also sign the declaration of satisfactory immigration status and provide, or apply for, a Social Security Number.

An "emergency medical condition" is defined in section IV.A.4 of this directive. Federal regulations at 42 CFR 440.255 provide that federal reimbursement is available after the sudden onset of the medical condition. Certain types of care provided to chronically ill persons are beyond the intent of federal law and are not considered emergency services. Such care includes alternate level of care in a hospital, nursing facility services, home care (including private duty nursing) and personal care.

Aliens applying for coverage for the treatment of emergency medical conditions must submit the DSS-3955: "Certification of Treatment of Emergency Medical Condition," completed and signed by a physician. The DSS-3955 has been revised and is attached to this directive as Attachment II.

Because the care that can be covered by Medicaid under the definition of emergency medical condition is limited, most authorizations for emergency care only will cover a specific period of time in the past. When this occurs, it is generally not necessary to issue the individual a Benefit Identification Card. The social services district must notify the provider of the acceptance/denial of the application, the period of coverage and the individual's Client Identification Number (CIN) when appropriate.

In instances where the authorization of emergency coverage only extends through a date in the future, the social services district may determine it is appropriate to issue a Benefit Identification Card. In such instances, an updated DSS-3955 must be obtained from a physician at least once every 90 days, in order to continue the Medicaid authorization.

NOTE: There is no requirement in the Medicaid program for districts to track or otherwise report to the Department of Health an alien who is not lawfully present in the United States who is applying for Medicaid only. Also, social services districts are reminded that, pursuant to Section 369(4) of the SSL, information received by social services and public health officials concerning applicants for and recipients of Medicaid may be disclosed or used only for purposes directly connected with the administration of the Medicaid program.

4. **BATTERED ALIENS**

An alien who, or whose child or parent, has been battered or subject to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien can be considered a qualified alien when it is determined that there is a substantial connection between the battery or cruelty and the need for benefits.

In order to be a qualified alien based on battery or extreme cruelty, the alien must not currently be residing in the same household as the individual responsible for the battery or extreme cruelty and must have a petition approved by or pending with the INS that sets forth a prima facie case for one of the following statuses:

- status as a spouse or child of a United States citizen under sections 204(a)(1)(A)(i), (ii), (iii), or (iv) of the INA;
- classification to immigrant status as a spouse or child of a lawful permanent resident alien under sections 204(a)(1)(B)(i), (ii), (iii), or (iv) of the INA; or
- suspension of deportation and adjustment to lawful permanent resident status under section 244(a)(3) of the INA.

A substantial connection between the battery or extreme cruelty suffered by the alien (or the alien's child or parent) and the need for Medicaid benefits exists under the following circumstances:

- the benefits are needed to enable the alien and/or the alien's child to become self-sufficient following separation from the abuser;
- the benefits are needed due to a loss of financial support resulting from the alien's and/or his or her child's separation from the abuser;
- the benefits are needed because work absence or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto cause the alien to lose his or her job or require the alien to leave his or her job for safety reasons;
- the benefits are needed because the alien or his or her child requires medical attention or mental health counseling, or has become disabled as a result of the battery or cruelty;
- the benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser;

- the benefits are needed to provide medical care during an unwanted pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with the alien or his or her child, and to care for resulting children; or
- medical coverage and/or health care services are needed to replace medical coverage of health care services the alien had when living with the abuser.

5. VETERAN AND ACTIVE DUTY EXCEPTIONS

a. Veterans

The exception from the five year ban for aliens entering the United States on or after August 22, 1996, applies to qualified aliens who are veterans of the United States Armed Forces. The veteran's discharge must have been characterized as honorable, and not on account of his or her alien status. This exception is also provided to the veteran's qualified alien spouse, including his or her unremarried surviving spouse if the veteran is deceased, and any unmarried dependent children of the veteran who are qualified aliens.

NOTE: The Balanced Budget Act of 1997 provided that Hmong and other Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and have been lawfully admitted to the United States for permanent residence are to be considered veterans for the purpose of this provision.

b. Active Military Duty

The exception from the five year ban for aliens entering the United States on or after August 22, 1996, also applies to qualified aliens who are on active duty in the United States

Armed Forces. The alien must be on full-time duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard. Active duty for training and full-time National Guard duty are not included in this exception.

This exception is also provided to the alien's qualified alien spouse and unmarried dependent children who are qualified aliens.

See Attachment I for acceptable documentation of honorable discharge or active duty status.

D. DEEMING THE SPONSOR'S INCOME AND RESOURCES

Section 122 of the SSL requires that the income and resources of a sponsor of an alien, who has signed an affidavit of support pursuant to the sponsor's spouse, will be deemed available to the alien in determining his or her eligibility for Medicaid, except for Medicaid coverage provided for the treatment of emergency medical conditions.

Federal law requires that the sponsor's income and resources must be deemed until such time as the alien becomes naturalized as a citizen or can be credited with forty qualifying quarters of earnings, as defined under Title II of the federal Social Security Act. To the extent that Medicaid, other than Medicaid provided for care and services necessary to treat an emergency medical condition, is paid on behalf of the sponsored alien, the social services district must request reimbursement by the sponsor. If the sponsor fails to cooperate, the district may bring an action against the sponsor, pursuant to the affidavit of support. Action may be brought against the sponsor no later than 10 years after the date on which the alien last received benefits.

The INS is requiring affidavits of support which meet the provisions of immigrant visas or adjustment of status filed on or after December 19, 1997. Most aliens whose sponsors have signed such affidavits will not be eligible for full Medicaid benefits, and thus, will not be subject to deeming requirements, until five years from their date of entry. A system to automatically verify an individual's quarters of employment through the Social Security Administration has been developed. Procedures for accessing the Social Security Administration's data base to obtain information on qualifying quarters were provided in the WMS Coordinator Letter dated August 1, 1997.

Further information regarding budgeting of a sponsor's income and resources, and pursuing recovery from the sponsor for benefits provided to a sponsored alien will be provided when procedures are finalized.

E. ACTION REQUIRED FOR UNDERCARE CASES

Non-citizens who do not meet the eligibility requirements outlined in Section C. but who are currently active in Medicaid cases must be closed upon the next client contact, but no later than the next recertification. Timely and adequate notice of discontinuance must be provided. (See Section V. of this directive.)

Social services districts were advised in 97 ADM-8 to code non-citizens whose alien status precluded them from receiving federally reimbursed Medicaid coverage with State/Federal Charge Code 41 in the Welfare Management System (WMS). Such individuals must now be closed, unless the individual has documented an emergency medical condition or pregnancy.

PRUCOL aliens receiving Medicaid in the residential settings described in Section IV.C.2.a., or who were diagnosed with AIDS on August 4, 1997, will continue to be provided Medicaid coverage, if otherwise eligible. Such individuals are coded in WMS with the Individual Categorical Code 37 (FNP Alien). (See Section VI of this directive).

V. NOTICE REQUIREMENTS

Appropriate language has been programmed into the Client Notices Subsystem (CNS) to support the denial and discontinuance of qualified aliens during their five year ban and of non-qualified aliens who do not require coverage for emergency medical conditions.

For aliens discontinued because they are not qualified aliens, use reason code E01.

For aliens denied because they are not qualified aliens, use reason code E06.

For qualified aliens who are subject to the five year ban, use denial reason code E07.

In situations which require manual notices:

- Use the following language to deny/discontinue non-qualified aliens:

This is because you are not a citizen or a qualified alien.

Qualified aliens include:

- O persons lawfully admitted for permanent residence;
- O persons admitted as refugees;
- O persons granted asylum;
- O persons granted status as Cuban and Haitian entrants;
- O persons admitted as Amerasian immigrants;
- O persons whose deportation has been withheld;
- O persons paroled into the United States for at least one year;
- O persons granted conditional entry; or
- O persons determined to be battered or subject to extreme cruelty in the United States by a family member.

Persons who are not citizens or qualified aliens may receive Medical Assistance coverage only for the treatment of emergency medical conditions, or for medical services provided to pregnant women, if they are otherwise eligible.

Should you require Medical Assistance as a result of an emergency medical condition or pregnancy, you may reapply.

This decision is based on Section 122 of Social Services Law.

- Use the following language to deny/discontinue qualified aliens who are subject to the five year ban:

This is because you are a qualified alien who entered the United States on or after August 22, 1996, and has had status as a qualified alien for less than five years. For five years from the date such an alien attains qualified alien status, the alien may receive Medical Assistance coverage only for the treatment of emergency medical conditions, or for medical services provided to pregnant women, unless the alien is:

- O admitted as a refugee;
- O granted asylum;
- O a Cuban and Haitian entrant;

- O admitted as an Amerasian immigrant;
- O a person whose deportation has been withheld;
- O a qualified alien on active duty in the Armed Forces of the United States, or the spouse or unmarried dependent child of the alien who is also a qualified alien;
- O a qualified alien who is a veteran of the Armed Forces of the United States, or the spouse or unmarried dependent child of the veteran who is also a qualified alien.

You may reapply for Medical Assistance after you have resided in the United States in qualified alien status for five years, or if you require coverage as a result of an emergency medical condition or pregnancy.

This decision is based on Section 122 of Social Services Law. Additional CNS reason codes relating to alien status are described in the WMS Coordinator Letter of November 18, 1997.

Aliens determined eligible for coverage of emergency medical conditions must be provided the DSS-3622A: "Notice of Eligibility for Coverage for the Treatment of an Emergency Medical Condition." This notice has been revised to reflect the new alien status requirements and is attached to this directive as Attachment III.

VI. SYSTEM IMPLICATIONS

A series of new Alien/Citizenship Indicator Codes have been added to the Welfare Management System (WMS) to identify qualified and non-qualified aliens and drive appropriate Medicaid coverage. These values are required entries for each active individual, upon Opening (02), Reopening (10) or Recertification (06) transactions. These values are not required for unborns or pregnant women in Case Type 20.

Further, the entry of the Alien/Citizenship Indicator will also force the entry of the individual's Alien Number and Date of Entry/Date of Status, as appropriate. Previously, these fields were only required for individuals eligible under the Refugee/Entrant Assistance Program.

A new Individual Categorical Code 37, defined as FNP Alien, must be used to identify non-qualified aliens eligible for full coverage due to a diagnosis of AIDS or to their receipt of Medicaid in the residential settings described in Section IV.C.2.a. of this directive on August 4, 1997. This code is needed to ensure appropriate claiming.

For districts other than New York City, the new codes were operational on the Production System on December 15, 1997. The WMS Coordinator Letter dated November 18, 1997 contains complete information on these changes.

In New York City, the new codes were operational on March 23, 1998.

NOTE: At the time of the November 18, 1997 WMS Coordinator Letter, the exception for non-qualified aliens who were in receipt of Medicaid and diagnosed with AIDS on August 4, 1997, was not in State law. As such, coding for this group is not addressed in this Coordinator Letter. The Citizenship/Alien Status Indicator Code "N" will be redefined to include this group. When reopening or recertifying such individuals,

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use a Citizenship/Alien Status Indicator Code of "N" and an Individual Categorical Code of "37" to ensure appropriate identification and claiming.

If alien receiving coverage for the treatment of an emergency medical condition only (MA Coverage Code 07) will not be provided a Benefit Identification Card, an X (omit name) must be entered in the Card Code Field.

VII. EFFECTIVE DATE

The provisions of this OMM/ADM are effective immediately, and are retroactive to August 4, 1997.



Kathryn Kuhmerker, Deputy Commissioner
Office of Medicaid Management

DOCUMENTATION GUIDE FOR CITIZENSHIP and ALIEN STATUS*

<p>United States Citizen: includes the 50 states, the District of Columbia, Puerto Rico, Guam, U.S. Virgin Islands, and the Northern Mariana Islands. Nationals from American Samoa or Swain's Island are regarded as United States citizens, for Medicaid purposes.</p> <ul style="list-style-type: none"> ◇ United States Passport ◇ Report of Birth Abroad of a citizen of the U.S. (Form FS-240) ◇ Certification of Birth (Form FS-545) ◇ Certification of Report of Birth (DS-1350) ◇ U.S. Citizen I.D. Card (Form I-197 or I-179) ◇ Naturalization Certificate (Form N-550 or N-570) ◇ Certificate of Citizenship (Form N-560 or N-561) ◇ Information from a primary source Federal agency (e.g., SSA) verifying U.S. place of birth 	<p>Qualified Aliens: Medicaid eligibility is based on whether the alien is a qualified alien or a non-qualified alien, and the date on which the alien entered the United States.</p> <p>Lawful Permanent Residents:</p> <ul style="list-style-type: none"> ◇ Form I-551 ◇ I-551 stamp in a foreign passport or I-94 (Note: Aliens with Forms I-151, AR-3 or AR-3a should be referred to INS for a replacement card) <p>Refugees:</p> <ul style="list-style-type: none"> ◇ Form I-94 showing entry under section 207 of the INA and date of entry ◇ Form I-688B annotated "274a.12(a)(3)" ◇ Form I-766 annotated "A-3" ◇ Form I-571 (does not document date of entry) ◇ Form I-551 coded RE6, RE7, RE8, or RE9 <p>Asylees:</p> <ul style="list-style-type: none"> ◇ Form I-94 stamped to show grant of asylum under section 208 of the INA ◇ grant letter from Asylum Office of INS ◇ Form I-688B annotated "274a.12(a)(5)" ◇ Form I-766 annotated "A-5" ◇ Form I-551 coded AS6, AS7, or AS8 <p>Conditional Entrants:</p> <ul style="list-style-type: none"> ◇ Form I-94 stamped to show admission under §203(a)(7), "refugee conditional entry" ◇ Form I-688B annotated "274a.12(a)(3)" ◇ Form I-766 annotated "A-3" <p>Persons with Deportation Withheld:</p> <ul style="list-style-type: none"> ◇ order of Immigration Judge showing deportation withheld under §243(h) or 241(b)(3) of the INA and date granted ◇ Form I-688B annotated "274a.12(a)(10)" ◇ Form I-766 annotated "A-10" 	<p>Qualified Aliens (continued)</p> <p>Cuban and Haitian Entrants:</p> <ul style="list-style-type: none"> ◇ Form I-94 showing granting of parole as a "Cuban/Haitian Entrant" under §212(d)(5) of the INA ◇ I-551 stamp in a foreign passport or I-94 with the code CU6 or CU7 ◇ Form I-551 coded CU6, CU7, or CH6 <p>Parolees:</p> <ul style="list-style-type: none"> ◇ Form I-94 showing granting of parole under §212(d)(5) of the INA and the date, showing status for at least one year ◇ Form I-688B annotated "274a.(12)(c)(11)" ◇ Form I-766 annotated "C-11" <p>Amerasian Immigrants:</p> <ul style="list-style-type: none"> ◇ I-551 stamp in a foreign passport or I-94 with the codes AM1, AM2 or AM3 ◇ Form I-551 coded AM6, AM7, or AM8 <p>Battered Aliens: petition approved or pending with INS for status under INA:</p> <ul style="list-style-type: none"> ◇ Section 204(a)(1)(A)(I), (ii), (iii) or (iv) ◇ Section 204(a)(1)(B) (i), (ii), or (iii) ◇ Section 244(a)(3)
<p>Members of an Indian Tribe: (Note: Noncitizen members of Federally-recognized Indian tribes and certain American Indians born in Canada are exempt from any limitations on Medicaid eligibility)</p> <p>American Indian born in Canada: (if at least one-half American Indian blood).</p> <ul style="list-style-type: none"> ◇ Birth or Baptismal Certificate issued on a reservation ◇ Tribal Records ◇ Letter from the Canadian Department of Indian Affairs ◇ School Records <p>Noncitizen Member of Federally-Recognized Tribe:</p> <ul style="list-style-type: none"> ◇ Membership card or other Tribal document ◇ Confirmed by contact with tribal government 		<p>Active Duty and Veterans:</p> <p>Persons on Active Duty in the Armed Forces:</p> <ul style="list-style-type: none"> ◇ original or notarized copy of current orders showing the alien is on full time duty in the U.S. Army, Navy, Air Force, Marine Corps or Coast Guard ◇ Military I.D. card – DD Form 2 (active) <p>Veterans of the Armed Forces:</p> <ul style="list-style-type: none"> ◇ original or notarized copy of the veteran's discharge papers ◇ DD-214, with Character of Service "HONORABLE"

*Any one of the listed documents is sufficient to verify status.

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Secondary Documentation of U.S. Citizenship:

The applicant must present one of the documents listed on the front of this *Documentation Guide*.
If none of these are available, the applicant must present the following:

1. ***Letter of No Record***: A letter issued by the State where the individual was born stating the name, date of birth, years searched for a record and that there is no birth certificate on file for the person

AND

2. ***One other document of birth in the U.S.*** such as:

- ◆ census record *
- ◆ certificate of circumcision *
- ◆ early school record *
- ◆ family bible record *
- ◆ doctor's record of post-natal care *
- ◆ a notarized affidavit from a blood relative familiar with the circumstances of the birth, i.e., a parent, aunt, uncle, sibling
- ◆ a delayed birth certificate filed more than one year after birth, listing the documentation used to create it. It must be signed by the attending physician or midwife, or list an affidavit by the parent(s), or show early public records

* Any of this documentation **must** be a record showing the date and place of birth and created within the first five years of life

CERTIFICATION OF TREATMENT OF EMERGENCY MEDICAL CONDITION

PATIENT'S LAST NAME FIRST NAME M.I. DATE OF BIRTH

STREET ADDRESS CITY STATE ZIP CODE

Diagnosis: _____

Treatment: _____

Date(s) of Treatment/Hospital Stay: _____

Medicaid coverage may be available to the above named individual for care and services (exclusive of care and services related to an organ transplant procedure) that were necessary for the treatment of an emergency medical condition. Pursuant to federal regulations at 42 CFR 440.255, the individual must have, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health in serious jeopardy; (ii) serious impairment of bodily functions; or (iii) serious dysfunction of any bodily organ or part.

PHYSICIAN'S CERTIFICATION - In signing below, I certify that the care and services provided to the above named individual on the dates specified were for the purpose of treating an emergency medical condition, as defined in 42 CFR 440.255.

SIGNATURE OF ATTENDING PHYSICIAN / LICENSE NUMBER PRINT FULL NAME

PROVIDER / FACILITY NAME PROVIDER / MMIS ID NO.

STREET ADDRESS CITY STATE ZIP CODE

CONSENT FOR RELEASE OF INFORMATION - I understand that the Department must obtain information regarding emergency medical treatment rendered to me to determine my eligibility for Medicaid. I give permission to the Department to request such information and to the physician or facility to provide such information as requested by the Department for this purpose.

SIGNATURE OF APPLICANT DATE

NOTICE OF ELIGIBILITY FOR COVERAGE FOR THE TREATMENT OF AN EMERGENCY MEDICAL CONDITION

CASE NAME	CASE NUMBER	DATE
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The applicant(s) indicated on the attached DSS-3622 has been determined to be eligible for Medical Assistance for coverage for emergency medical care and services only, for the reason indicated below:

- The applicant is not a citizen or a qualified alien. Persons who are not citizens or qualified aliens may receive Medical Assistance coverage only for the treatment of emergency medical conditions, or for medical services provided to pregnant women, if they are otherwise eligible.

Qualified aliens include:

- persons lawfully admitted for permanent residence;
- persons admitted as refugees;
- persons granted asylum;
- persons granted status as Cuban and Haitian Entrants;
- persons admitted as Amerasian immigrants
- persons whose deportation has been withheld;
- persons paroled into the United States for at least one year;
- persons granted conditional entry; or
- persons determined to be battered or subject to extreme cruelty in the United States by a family member.

The applicant is a qualified alien who entered the United States on or after August 22, 1996, and has had status as a qualified alien for less than five years. Such aliens may receive Medical Assistance coverage only for treatment of emergency medical conditions, or for medical services provided to pregnant women, unless the alien is:

- admitted as a refugee;
- granted asylum;
- a Cuban and Haitian Entrant;
- admitted as an Amerasian immigrant
- a person whose deportation has been withheld;
- a qualified alien on active duty in the Armed Forces of the United States, and his/her qualified alien spouse or unmarried dependent child;
- a qualified alien who is a veteran of the Armed Forces of the United States, and his/her qualified alien spouse or unmarried dependent child.

The care/services provided to (name(s)) _____ on _____ by _____ has been determined necessary for the treatment of an emergency medical condition. Therefore, coverage will be provided for this treatment as follows:

- Full coverage
- Coverage with a SPENDDOWN requirement:

Gross monthly income	\$ _____
Total monthly deductions	\$ _____
Net monthly income	\$ _____
Allowable income standard	\$ _____
Monthly excess income (spenddown)	\$ _____

Based on these calculations, the liability toward the cost of care for the period of treatment is \$ _____. (See the enclosed "Explanation of the Excess Income Program" for information on how this liability may be met.)

The provider(s) of medical care/services has been notified of your eligibility for Medical Assistance coverage.

REGULATIONS REQUIRE THAT YOU IMMEDIATELY NOTIFY THIS DEPARTMENT OF ANY CHANGES IN NEEDS, RESOURCES, LIVING ARRANGEMENTS OR ADDRESS

BE SURE TO READ THE ATTACHED NOTICE ON HOW TO APPEAL THIS DECISION

RIGHT TO A CONFERENCE: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the first page of this notice or by sending a written request to us at the address listed at the top of the first page of this notice. This number is used only for asking for a conference. *It is not the way you request a fair hearing.* If you ask for a conference you are still entitled to a fair hearing. Read below for fair hearing information.

RIGHT TO A FAIR HEARING: If you believe that the above action is wrong, you may request a State fair hearing by:

1. **Telephoning:** (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL)

- If you live in: **New York City** (Manhattan, Bronx, Brooklyn, Queens, Staten Island): **(212) 417-6550**
- If you live in: **Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans or Wyoming County:** **(716) 852-4868**
- If you live in: **Allegany, Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne or Yates County:** **(716) 266-4868**
- If you live in: **Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tompkins or Tioga County:** **(315) 422-4868**
- If you live in: **Albany, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Sullivan, Ulster, Warren, Washington or Westchester County:** **(518) 474-8781**
- If you live in: **Nassau or Suffolk County:** **(516) 739-4868**

OR

2. **Writing:** By sending a copy of this notice *completed*, to the Office of Administrative Hearings, New York State Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, New York 12201. Please keep a copy for yourself.

I want a fair hearing. The Agency's action is wrong because:

Signature of Client: _____ Date: _____

YOU HAVE 60 DAYS FROM THE DATE OF THIS NOTICE TO REQUEST A FAIR HEARING

If you request a fair hearing, the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person, or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, paystubs, receipts, medical bills, heating bills, medical verification, letters, etc. that may be helpful in presenting your case.

LEGAL ASSISTANCE: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the first page of this notice.

ACCESS TO YOUR FILES AND COPIES OF DOCUMENTS: To help you get ready for the hearing, you have a right to look at your case file. If you call or write to us, we will provide you with free copies of the documents from your file which we will give to the hearing officer at the hearing. Also, if you call or write to us, we will provide you with other documents from your file which you think you may need to prepare for your fair hearing. To ask for documents or to find out how to look at your file, call us at the Records Access telephone number listed at the top of front page of this notice or write us at the address printed at the top of the front page of this notice.

If you want copies of documents from your case file, you should ask for them ahead of time. They will be provided to you within a reasonable time before the date of the hearing. Documents will be mailed to you only if you specifically ask that they be mailed.

INFORMATION: If you want more information about your case, how to ask for a fair hearing, how to see your file, or how to get additional copies of documents, call us at the telephone numbers listed at the top of the front page of this notice or write to us at the address printed at the top of the front page of this notice.